

United States Senate

WASHINGTON, DC 20510-4502

February 19, 2020

Rosalind Sargent-Burns
Acting Pardon Attorney
U.S. Department of Justice
Office of the Pardon Attorney
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Ms. Sargent-Burns,

I write to urgently request information about what role, if any, your office played in President Trump's decision to issue a series of controversial pardons and commutations yesterday, February 18, 2020.¹ Reports indicate that President Trump did not rely upon the advice of the Office of Pardon Attorney in granting these pardons and commutations.² This raises serious questions about President Trump's pattern of sidelining institutional safeguards, like your office, which exist to ensure that the president's pardon powers are exercised fairly and in the interests of justice.

On November 26, 2019, Senator Whitehouse and I wrote a letter asking about the role of your office in President Trump's pardons of military service members convicted or charged with war crimes over the vocal objections of military leadership.³ Your response, dated February 10, 2020, failed to address a number of our questions. But it did acknowledge that, as of the date of your response, only six out of the 22 individuals who have received a pardon or commutation from President Trump had actually filed a petition for clemency with the Pardon Attorney as outlined in Section 9-140.110 of the Department of Justice's Justice Manual.⁴

What process President Trump relied upon – and what motivated him to grant yesterday's pardons and commutations – merit serious scrutiny. For example, it has been reported that the family of Paul Pogue, pardoned yesterday, has donated hundreds of thousands of dollars to President Trump's re-election campaign entities since August of 2019.⁵

¹ *Statement from the Press Secretary Regarding Executive Grants of Clemency*, The White House (Feb. 18, 2020), <https://www.whitehouse.gov/briefings-statements/statement-press-secretary-regarding-executive-grants-clemency-2/>.

² Michael D. Shear, Maggie Haberman, *Trump Grants Clemency to Blagojevich, Milken and Kerik*, The New York Times (Feb. 18, 2020), <https://www.nytimes.com/2020/02/18/us/politics/trump-pardon-blagojevich-debartolo.html>.

³ Senator Patrick Leahy, Senator Sheldon Whitehouse, *Letter from Senators Patrick Leahy and Sheldon Whitehouse to the Office of Pardon Attorney* (regarding war crimes pardons) (Nov. 26, 2019), <https://www.leahy.senate.gov/press/leahy-whitehouse-query-doj-about-president-trumps-controversial-war-crimes-pardons>.

⁴ *9-140.000 – PARDON ATTORNEY*, The United States Department of Justice Justice Manual (last visited Feb. 19, 2020), <https://www.justice.gov/jm/jm-9-140000-pardon-attorney>.

⁵ Justin Baragona, Asawin Suebsaeng, *Trump Got Tons of Campaign Cash Before Handing Out Pardon*, The Daily Beast (Feb. 18, 2020), <https://www.thedailybeast.com/trump-grants-clemency-to-another-round-of-people-he-saw-on-fox-news?ref=home>.

In order for us to understand the full range of input President Trump received in his exercise of clemency powers yesterday – and whether or not that included your office’s non-partisan, expert advice – we ask that you provide written answers to the following questions by March 6, 2020:

1. Did the White House at any time ask for your office’s formal or informal recommendation about whether to issue any of the pardons and commutations granted yesterday, February 18, 2020? If so, for which pardons or commutations did President Trump seek your counsel?
2. Did your office at any time provide formal or informal recommendations to the White House in any of these cases?
 - a. If so, please describe your recommendations in each of the cases, and the rationale for each recommendation. To the extent possible, please provide copies of documents memorializing your recommendations in each.
 - b. If so, when were those recommendations conveyed to the White House?
 - c. If your office did not provide recommendations in these cases, why not?
3. Section 9-140.110 of the Department of Justice’s Justice Manual describes the traditional petition for clemency process, by which your office “receives and reviews all petitions for Executive Clemency (which includes pardon after completion of sentence, commutation of sentence, remission of fine or restitution and reprieve), initiates and directs the necessary investigations, and prepares a report and recommendation for submission to the President in every case.”⁶
 - a. Of those individuals who received a pardon or commutation yesterday, it appears that Edward DeBartolo, Jr.,⁷ Bernard Kerik,⁸ Paul Pogue,⁹ Rod Blagojevich,¹⁰ Tynice Nichole Hall,¹¹ Crystal Munoz,¹² and Judith Negron¹³ had petitions for clemency pending with your office as of February 3, 2020. What were the status of those petitions when President Trump granted pardons and commutations to these individuals yesterday? Granted, denied, administratively closed, or still pending?
 - b. Michael Milken appears to have had his most recent petition denied by your office on January 19, 2009.¹⁴ Did he file a subsequent petition?
 - i. If so, what was the status of that petition when President Trump granted Milken a pardon yesterday? Granted, denied, administratively closed, or still pending?

⁶ 9-140.000 – PARDON ATTORNEY, *supra* note 4.

⁷ *Search Clemency Case Status for Cases Opened Since 1989* (results of search function of Department of Justice online case search engine), The United States Department of Justice: Office of Pardon Attorney (last visited Feb. 19, 2020), https://www.justice.gov/pardon/search-clemency-case-status-since-1989?last_name=.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*


¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

- ii. If not, was your office asked by the White House to nonetheless provide a recommendation on Milken's case?
- c. As of February 3, 2020, there does not appear to be any publicly available information about petitions for clemency from Ariel Friedler, David Safavian, or Angela Stanton. Did any of these individuals file a petition for clemency between February 3, 2020 and the time of their pardon yesterday?
 - i. If so, what was the status of those petitions when President Trump granted clemency in their cases yesterday? Granted, denied, administratively closed, or still pending?
 - ii. If not, was your office asked by the White House to nonetheless provide a recommendation on these cases?

Sincerely,

A handwritten signature in blue ink that reads "Patrick Leahy". The signature is written in a cursive, flowing style with a horizontal line underneath the name.

Patrick Leahy
United States Senator